

Docket No.: 132538-1014
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Paul Willard et al.

Application No.: 09/802,481

Confirmation No.: 5875

Filed: March 9, 2001

Art Unit: 3692

For: CUSTOMIZED CREDIT OFFER STRATEGY Examiner: N. Subramanian
 BASED ON TERMS SPECIFIED BY AN
 APPLICANT

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT (IDS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the following statement. It is respectfully requested that the information in this Statement be expressly considered during the prosecution of this application.

This Information Disclosure Statement is filed more than three months after the U.S. filing date, but before the mailing date of a Final Office Action or Notice of Allowance (37 CFR 1.97(c)).

In accordance with 37 CFR 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR 1.56(a) exists. In accordance with 37 CFR 1.97(h), the filing of this Information Disclosure Statement shall not be construed to be an admission that any patent, publication or other information referred to therein is "prior art" for this invention unless specifically designated as such.

The owner of the patent application, NextCard, LLC, is defending an action styled LivePerson, Inc. v. NextCard, LLC, et al., Civil Action No. 08-062 (GMS), in the U.S. District Court for the District of Delaware, in which patent owner alleges infringement of U.S. Patent nos. 6,718,313 and 7,346,576, and in which the plaintiff is seeking a declaration that the patents are invalid and not infringed. No facts supporting these allegations have been alleged. The '313 and '576 patents are commonly owned with the present application, and relate to methods and apparatus for conducting an on-line chat with an applicant for credit.

NextCard, LLC has filed an action styled NextCard, LLC v. American Express Company, et al., Civil Action No. 2:07-cv-354 (TJW), in the U.S. District Court for the Eastern District of Texas, Marshall Division alleging infringement of U.S. Patent Nos. 6,405,181; 6,567,791; 7,143,063; 6,718,313; and 7,346,576. Each of the defendants alleges that the patents are invalid by reason of the failure to comply with one or more of the requirements of Title 35, United States Code, including, but not limited to, 35 U.S.C. §§102, 103 and 112. One defendant also has alleged that the patents are unenforceable because of "inequitable conduct committed by the named inventor and/or others during the filing and/or prosecution of the [patents] before the Patent Office." No facts have been alleged in support of any of the allegations. This application is a continuation in part of the '181, '791 and '063 patents. The '313 and '576 patents are commonly owned with the present application, and relate to methods and apparatus for conducting an on-line chat with an applicant for credit.

NextCard, LLC is bringing an action styled NextCard, LLC v. LivePerson, Inc., Civil Action No. 2:08-cv-00184 (TJW), in the U.S. District Court for the Eastern District of Texas, Marshall Division that alleges infringement by defendant of U.S. Patent Nos. 6,718,313 and 7,346,576. No answer has been filed by the defendant. The '313 and '576 patents relate to methods and apparatus for conducting an on-line chat with an applicant for credit.

It is submitted that the Information Disclosure Statement is in compliance with 37 CFR 1.98 and the Examiner is respectfully requested to consider the above information.

Applicants are paying the \$180.00 fee as set forth in 37 CFR 1.17(p) via credit card at the time of electronic filing of this paper. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with

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any paper hereafter filed in this application by this firm) to our Deposit Account No. 07-0153,
under Ref. No. 132538-1016.

Dated: December 23, 2008

Respectfully submitted,

By /Marc A. Hubbard/

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